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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013 810*

13 **JOHN PAUL RABAJA ABAD**

14 633 Cottonwood Lane  
San Dimas, CA 91773

**A C C U S A T I O N**

15 Registered Nurse License No. 687655

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs (Board).

23 2. On or about August 28, 2006, the Board issued Registered Nurse License No. 687655  
24 to John Paul Rabaja Abad (Respondent). The Registered Nurse License was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on August 31, 2014,  
26 unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 2764 provides that the expiration of a license shall not deprive the Board of  
5 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision  
6 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an  
7 expired license at any time within eight (8) years after the expiration.

8 **STATUTORY PROVISIONS**

9 5. Section 490 provides that a board may suspend or revoke a license on the ground that  
10 the licensee has been convicted of a crime substantially related to the qualifications, functions, or  
11 duties of the business or profession for which the license was issued.

12 6. Section 2750 provides that the Board may discipline any licensee, including a  
13 licensee holding a temporary or an inactive license, for any reason provided in Article 3  
14 (commencing with section 2750) of the Nursing Practice Act.

15 7. Section 2761 states, in pertinent part:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an  
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 . . . .

20 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
21 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice  
22 Act] or regulations adopted pursuant to it.

23 . . . .

24 "(f) Conviction of a felony or of any offense substantially related to the qualifications,  
25 functions, and duties of a registered nurse, in which event the record of the conviction shall be  
26 conclusive evidence thereof. . . ."

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1       8.    Section 2762 states, in pertinent part:

2        "In addition to other acts constituting unprofessional conduct within the meaning of this  
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
4 chapter to do any of the following:

5        ....

6        "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
10 ability to conduct with safety to the public the practice authorized by his or her license.

11       "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
12 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
13 or the possession of, or falsification of a record pertaining to, the substances described in  
14 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
15 thereof. . . ."

16                               **REGULATORY PROVISION**

17       9.    California Code of Regulations, title 16, section 1444 states, in pertinent part:

18        "A conviction or act shall be considered to be substantially related to the qualifications,  
19 functions or duties of a registered nurse if to a substantial degree it evidences the present or  
20 potential unfitness of a registered nurse to practice in a manner consistent with the public health,  
21 safety, or welfare. . . ."

22                               **COST RECOVERY**

23       10.   Section 125.3 provides that the Board may request the administrative law judge to  
24 direct a licentiate found to have committed a violation or violations of the licensing act to pay a  
25 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with  
26 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a  
27 case settles, recovery of investigation and enforcement costs may be included in a stipulated  
28 settlement.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Convictions of Substantially Related Crimes)**

3 11. Respondent is subject to disciplinary action under sections 490 and 2761,  
4 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1442, in that  
5 Respondent was convicted of crimes substantially related to the qualifications, functions or duties  
6 of a registered nurse which to a substantial degree evidence is present or potential unfitness to  
7 practice in a manner consistent with the public health, safety, or welfare, as follows:

8 a. On or about May 18, 2012, after pleading nolo contendere, Respondent was convicted  
9 of one misdemeanor count of violating Vehicle Code section 23152(b) [driving with blood  
10 alcohol content (BAC) of 0.08% or greater ] in the criminal proceeding entitled *The People of the*  
11 *State of California v. John Paul Rabaja Abad* (Super. Ct. Los Angeles County, 2012,  
12 No. 2PS01269). The Court sentenced Respondent to 96 hours jail, placed him on three (3) years  
13 probation, and ordered him to complete an 18-Month Alcohol Program pursuant to Health and  
14 Safety Code section 11837.

15 b. The circumstances underlying the conviction are that on or about March 18, 2012,  
16 Respondent admittedly drove a vehicle while under the influence of a tested 0.198/0.184% BAC  
17 and caused a single vehicle traffic collision.

18 c. On or about September 20, 2010, after pleading guilty, Respondent was convicted of  
19 one misdemeanor count of violating Vehicle Code section 23152(b) [driving with BAC of 0.08%  
20 or greater] in the criminal proceeding entitled *The People of the State of California v. John Paul*  
21 *Rabaja Abad* (Super. Ct. Orange County, 2010, No. 10NM04079). The Court placed Respondent  
22 on three (3) years probation, ordered him to complete a Three-Month Level 1 First Offender  
23 Alcohol Program and ordered him to complete the MADD (Mothers Against Drunk Drivers)  
24 Victim's Impact Panel.

25 d. The circumstances underlying the conviction are that on or about March 12, 2010,  
26 Respondent admittedly drove a vehicle while under the influence of a tested 0.172/0.168% BAC.

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3. Taking such other and further action as deemed necessary and proper.

DATED: March 20, 2013

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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